

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

BRANDY SIGMAN, et al.,

Plaintiffs,

v.

CIVIL ACTION NO. 3:15-13328

CSX CORPORATION and
CSX TRANSPORTATION INC.,

Defendants.

ORDER

Pending before the Court is CSX Transportation, Inc.'s ("CSXT") Motion for Summary Judgment ("Motion"). ECF No. 224. In the Motion, CSXT moves for summary judgment in its favor with regard to all of Plaintiffs claims. Relevantly, one of Plaintiffs claims is a claim for punitive damages. *Compl.*, ECF No. 1-1, at 28. After briefing and argument, the Court is prepared to render judgment with regard to Plaintiffs' claim for punitive damages.

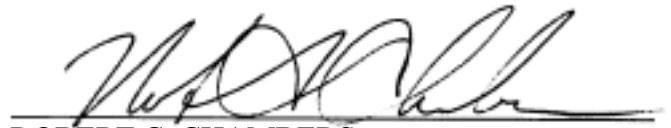
West Virginia law "has long required more than a showing of simple negligence to recover punitive damages." *Bennett v. 3 C Coal Co.*, 379 S.E.2d 388, 394 (W. Va. 1989). A defendant must commit "conduct that is sufficiently egregious to justify [an] award of punitive damages." *Parsons v. Best Buy Stores, L.P.*, No. 3:09-CV-0771, 2010 WL 2990768, at *1 (S.D.W. Va. July 27, 2010). As punitive damages are the exception, and not the rule, there is a high bar for demonstrating the sufficient level of offensiveness. *See Fowler v. Kanawha Valley Fine Jewelry & Loan LLC*, No. 2:14-CV-5510, 2015 WL 164096, at *6 (S.D.W. Va. Jan. 13, 2015) (internal

citations omitted). Furthermore, a plaintiff must demonstrate the required elements of a punitive damages claim by clear and convincing evidence. *See* W. Va. Code § 55-7-29(a).

Plaintiffs have failed to meet the high bar necessary to continue with their punitive damages claim. The evidence produced does not allow the Court to find that a reasonable juror could award punitive damages. Therefore, the Court **GRANTS, IN PART**, CSXT's Motion for Summary Judgment, with respect to the punitive damages claim.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented parties.

ENTER: March 9, 2018

A handwritten signature in black ink, appearing to read 'Robert C. Chambers', is written over a horizontal line.

ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE